IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen; Plaintiff, vs. HAWAIIAN EXPRESS SERVICE, INC., a California corporation; et al., Defendants.	Civ. No. CV03 00385 SOM-LEK (Copyright) **DECLARATION OF PROFESSOR PHILIP JOHNSON PhD; EXHIBITS "A" - "G"**

DECLARATION OF PROFESSOR PHILIP JOHNSON PhD

I, PROFESSOR PHILIP JOHNSON, am a full professor of Computer Science at the University of Hawaii, Manoa. I have been asked to provide expert testimony in this case on behalf of Mr. Berry and I make this declaration under the penalty of perjury. All the statements herein are true and correct to the best of my knowledge, information and belief. If called upon to testify regarding the matters herein, I am competent and willing to do so.

1. Exhibit "A" attached hereto, is true and correct copy of a screen print of the Microsoft Access Database file "Auxiliary Logistic Screens - Converted" that I have confirmed, by viewing the actual file in Mr. Hogan's office, is a true

EXHIBIT "D"

and correct screen print excerpt of that database file. The "MsysObjects" table of this database screen file, as shown in the second and third pages of Exhibit "A", evidence that this database screen file was linked to Mr. Berry's database "FCS Logistics Data.Mdb"on June 17, 2003. This is also supported by the "Statistics" drop down box of this file's "Properties" box shown on the third page of this Exhibit, that evidences that the file, containing this link to "FCS Logistics Data.Mdb" was modified on July 1, 2003. The Linked Table Manager of "Auxiliary Logistic Screens - Converted" as set forth on the fourth page of this Exhibit also evidences that at the time this file was acquired in the Guidance Software, Inc. "After" in July 2003, these database screens were still linked to the FCS Logistics Data.mdb Access database.

2. Attached hereto as Exhibit "B" is a true and correct copy of screen prints from the file "Tariff 60 Bill of Lading6". I have confirmed by viewing the actual file in Mr. Hogan's office that it is a true and correct screen print of that Crystal Report file. The second page of this exhibit shows that a report generated by this file was last printed on May 7, 2003, and the file was last saved on June 30, 2003. The third page evidences that this Crystal Report file was linked to the "FCS Logistics Data" Access database and that it was last saved on June 30, 2003.

3. Attached hereto as Exhibit "C" is a true and correct copy of screen prints from the Crystal Report file "Tariff 60 Bill of Lading3 ". I have confirmed by viewing the actual file in Mr. Hogan's office that it is a true and correct screen print of that Crystal Report file. The second page of this exhibit shows that a report containing contemporaneous data of shipments was generated by this file that was last printed on June 3, 2003 when this was also last saved. The third page evidences that this Crystal Report file was linked to the "FCS Logistics Data" Access database when it was last saved. Based on this Exhibit "C" and Exhibits "A" and "B" and the review of other similar files in Mr.Hogan's office and my expertise in the field of computer science, I conclude that Mr. Berry's FCS Logistics Data Access database continued to be linked to software that was used at Fleming in the Month of June 2003 to as late as June 30, 2003 when Exhibit "B" shows it was last saved.

4. Attached hereto as Exhibit "D" is a copy of screen prints from the Microsoft Access database screen file "FHL Data Screens". I have confirmed by viewing the actual file in Mr. Hogan's office that it is a true and correct screen print of that file. Based on my knowledge in the field of Computer Science, this exhibit evidences that "FHL Data Screens" was linked to Mr. Berry's database, "FCS Logistics Data.mdb" on December 9, 2002 as evidenced by that second page

of that exhibit. As evidenced by the third page of this exhibit, it remained linked to Mr. Berry's FCS Logistics Data.mbd when Guidance Software captured it in its imaging in July 2003.

5. Attached hereto as Exhibit "E" is a true and correct copy of screen prints of the Crystal Report file "SIT Query". I have confirmed by viewing the actual file in Mr. Hogan's office that it is a true and correct screen print. As set forth in page two of this exhibit, this Crystal Report was created on June 10, 2003 and last saved on July 3, 2003. The third page evidences data that is contemporaneous with the June to July 2003 period. The last page evidences that this report was linked to data contained in the "FHL Data.mdb" Access database file. The Set DataSource Location properties on page 4 of this exhibit also evidence that the file was located in a directory named g:\data\archive\dillonlogisticsdatabase\currentversion\fhl data.mdb.

6. Attached hereto as Exhibit "F" is a true and correct copy of screen prints of the of the Crystal Report file "Receiving Schedule4". I have confirmed by viewing the actual file in Mr. Hogan's office that it is a true and correct screen print of the actual file. This file evidences that it was used on July 4, 2003 to print a report that was linked to "FHL Data.mdb," an Access database.

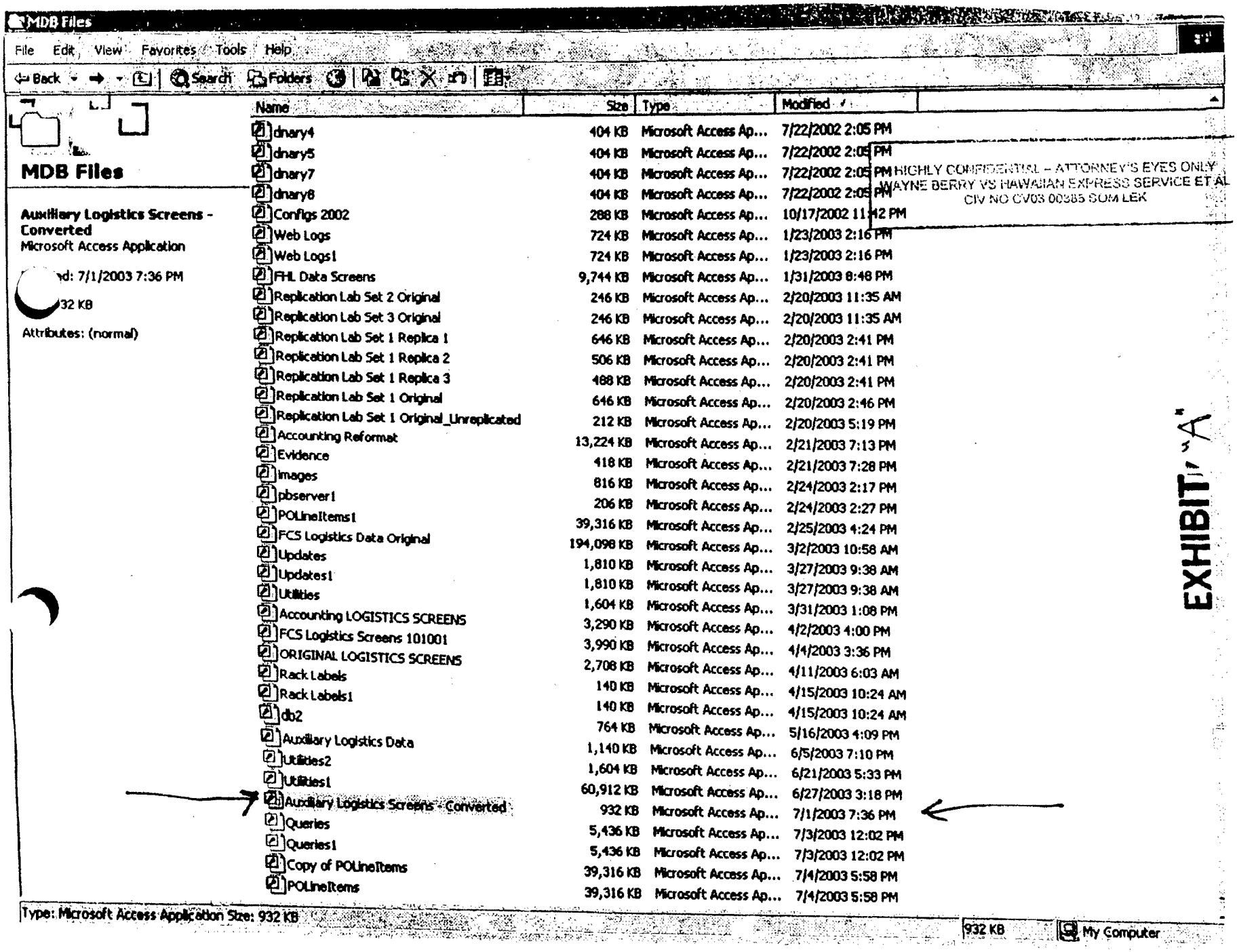
7. Attached hereto as Exhibit "G" is a true and correct copy of screen

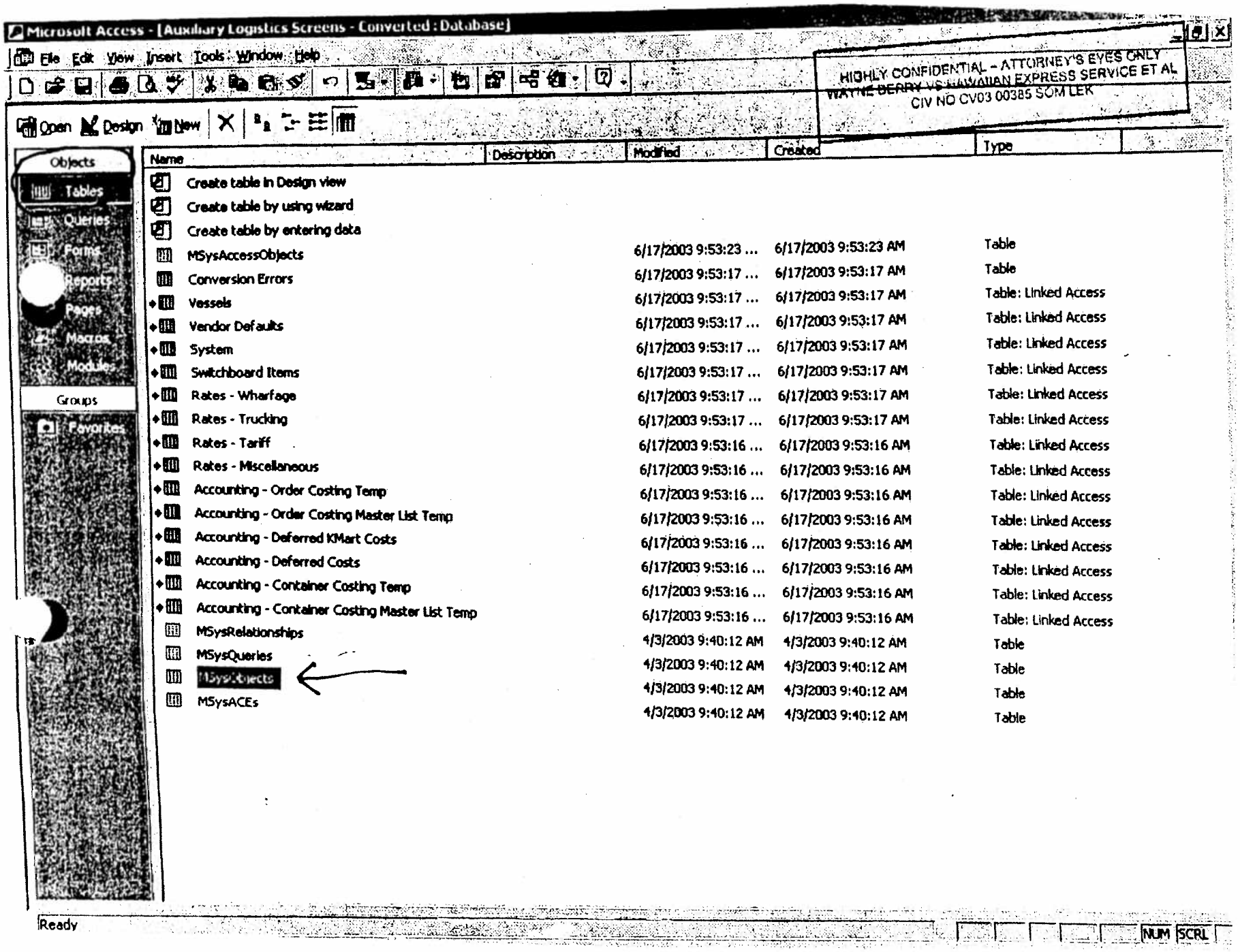
prints of the Crystal Report file "Auto Bill14". I have confirmed by viewing the actual file in Mr. Hogan's office that it is a true and correct screen print of the file. This file evidences that it was last saved on June 24, 2003 and was linked to an Access database, FHL Data.mdb.

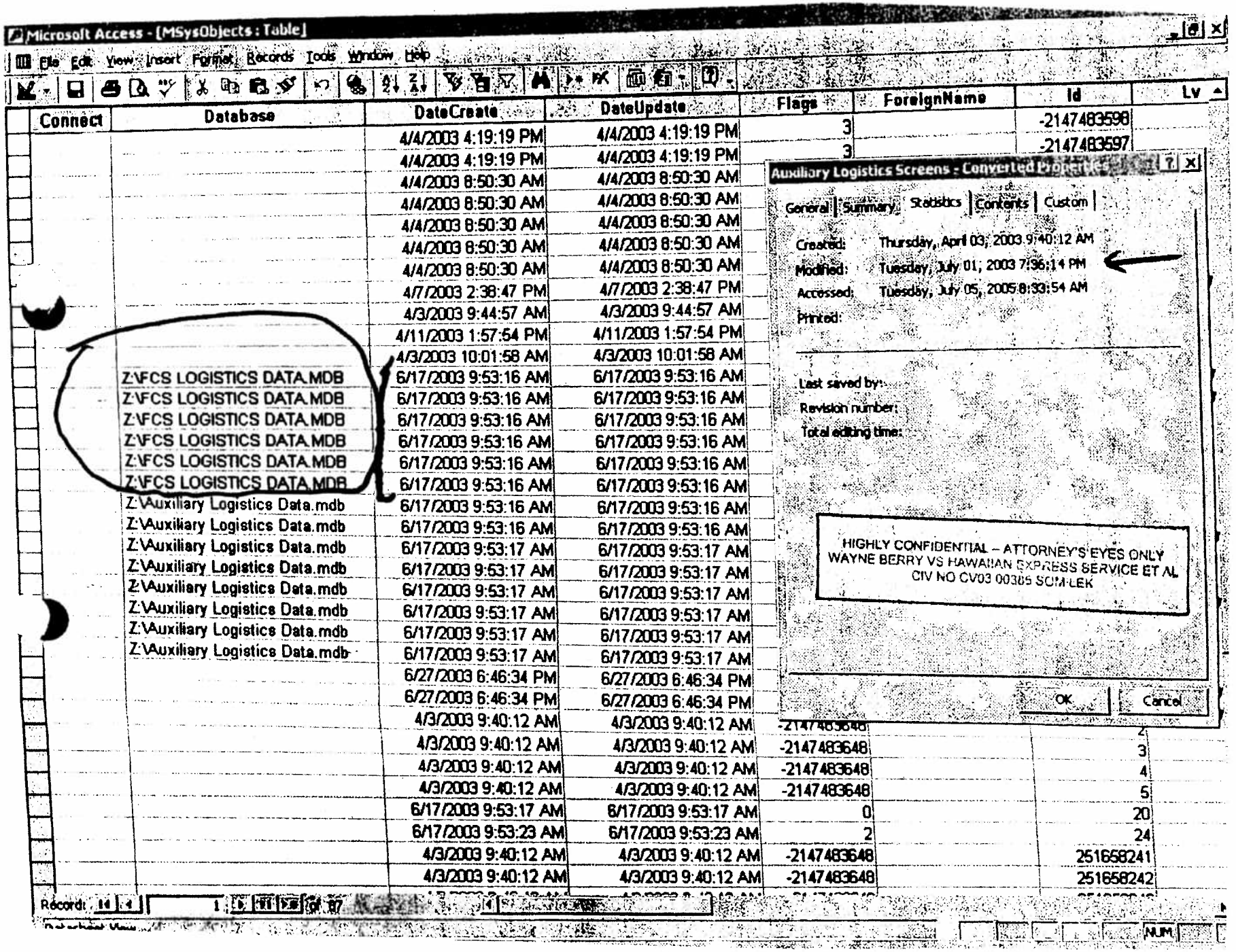
8. Based on the evidence that I have reviewed, and my knowledge and expertise in the field of computer science, I conclude that Fleming continued to link to a copy of FCS Logistics Data.mdb up to and including June 30, 2003 when the file evidenced by Exhibit "B" was last saved. In addition, Fleming linked to the file named "FHL Data.mdb" after June 9, 2003 and at least up to July 4, 2003 as evidenced by Exhibits "E" "F" and "G."

Dated: Honolulu, Hawaii July 7 2005

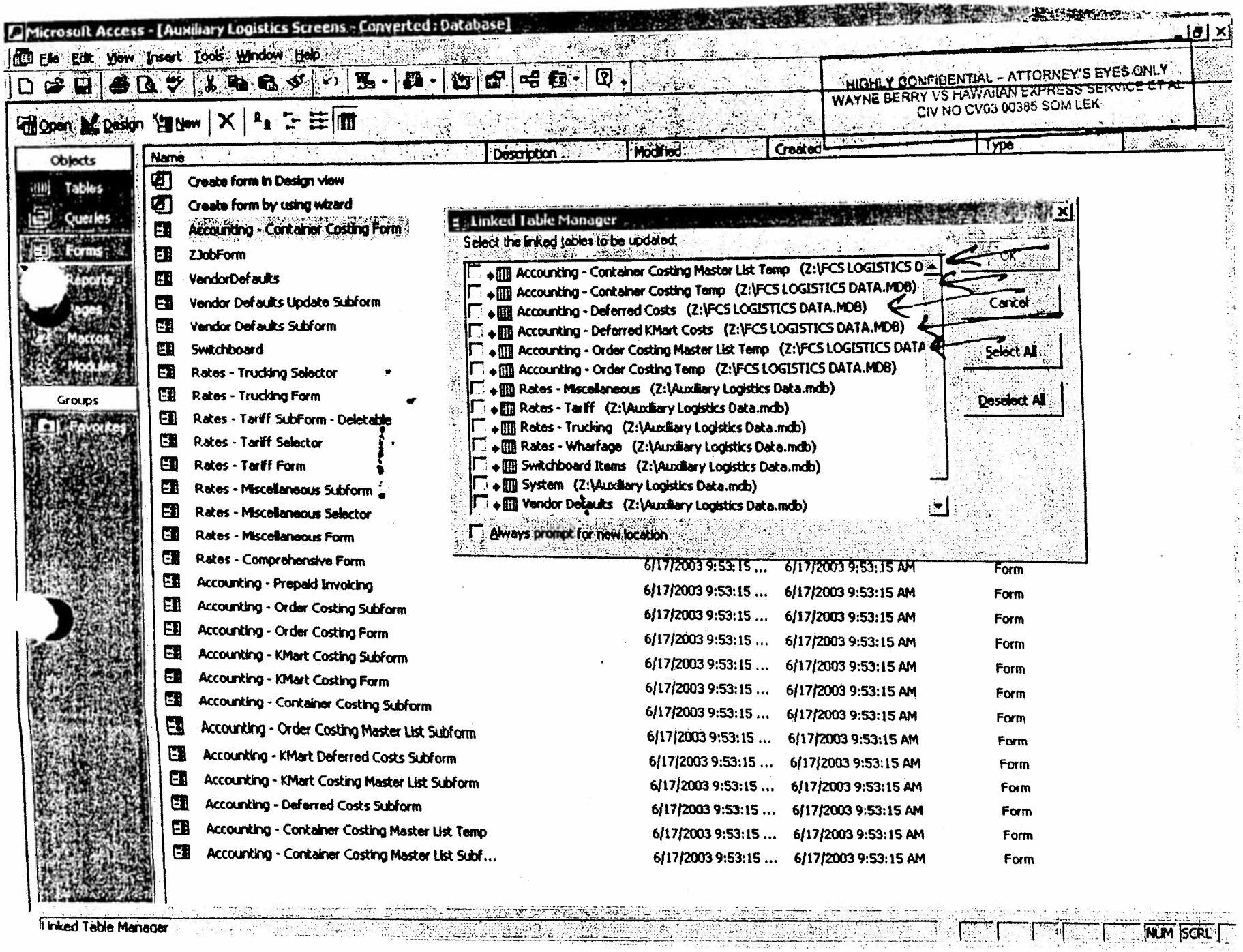
Philip Johnson
PHILIP JOHNSON, PhD


MDB Files
File Edit View Favorites Tools Help
Back Search Folders
MDB Files
Auxiliary Logistics Screens - Converted
Microsoft Access Application
d: 7/1/2003 7:36 PM
32 KB
Attributes: (normal)
Name Size Type Modified
dnary4 404 KB Microsoft Access Ap... 7/22/2002 2:05 PM
dnary5 404 KB Microsoft Access Ap... 7/22/2002 2:05 PM
dnary7 404 KB Microsoft Access Ap... 7/22/2002 2:05 PM
dnary8 404 KB Microsoft Access Ap... 7/22/2002 2:05 PM
Configs 2002 288 KB Microsoft Access Ap... 10/17/2002 11:42 PM
Web Logs 724 KB Microsoft Access Ap... 1/23/2003 2:16 PM
Web Logs1 724 KB Microsoft Access Ap... 1/23/2003 2:16 PM
FHL Data Screens 9,744 KB Microsoft Access Ap... 1/31/2003 8:48 PM
Replication Lab Set 2 Original 246 KB Microsoft Access Ap... 2/20/2003 11:35 AM
Replication Lab Set 3 Original 246 KB Microsoft Access Ap... 2/20/2003 11:35 AM
Replication Lab Set 1 Replica 1 646 KB Microsoft Access Ap... 2/20/2003 2:41 PM
Replication Lab Set 1 Replica 2 506 KB Microsoft Access Ap... 2/20/2003 2:41 PM
Replication Lab Set 1 Replica 3 488 KB Microsoft Access Ap... 2/20/2003 2:41 PM
Replication Lab Set 1 Original 646 KB Microsoft Access Ap... 2/20/2003 2:46 PM
Replication Lab Set 1 Original_Unreplicated 212 KB Microsoft Access Ap... 2/20/2003 5:19 PM
Accounting Reformat 13,224 KB Microsoft Access Ap... 2/21/2003 7:13 PM
Evidence 418 KB Microsoft Access Ap... 2/21/2003 7:28 PM
Images 816 KB Microsoft Access Ap... 2/24/2003 2:17 PM
pbserver1 206 KB Microsoft Access Ap... 2/24/2003 2:27 PM
POLineItems1 39,316 KB Microsoft Access Ap... 2/25/2003 4:24 PM
FCS Logistics Data Original 194,098 KB Microsoft Access Ap... 3/2/2003 10:58 AM
Updates 1,810 KB Microsoft Access Ap... 3/27/2003 9:38 AM
Updates1 1,810 KB Microsoft Access Ap... 3/27/2003 9:38 AM
Utilities 1,604 KB Microsoft Access Ap... 3/31/2003 1:08 PM
Accounting LOGISTICS SCREENS 3,290 KB Microsoft Access Ap... 4/2/2003 4:00 PM
FCS Logistics Screens 101001 3,990 KB Microsoft Access Ap... 4/4/2003 3:36 PM
ORIGINAL LOGISTICS SCREENS 2,708 KB Microsoft Access Ap... 4/11/2003 6:03 AM
Rack Labels 140 KB Microsoft Access Ap... 4/15/2003 10:24 AM
Rack Labels1 140 KB Microsoft Access Ap... 4/15/2003 10:24 AM
db2 764 KB Microsoft Access Ap... 5/16/2003 4:09 PM
Auxiliary Logistics Data 1,140 KB Microsoft Access Ap... 6/5/2003 7:10 PM
Utilities2 1,604 KB Microsoft Access Ap... 6/21/2003 5:33 PM
Utilities1 60,912 KB Microsoft Access Ap... 6/27/2003 3:18 PM
Auxiliary Logistics Screens - Converted 932 KB Microsoft Access Ap... 7/1/2003 7:36 PM
Queries 5,436 KB Microsoft Access Ap... 7/3/2003 12:02 PM
Queries1 5,436 KB Microsoft Access Ap... 7/3/2003 12:02 PM
Copy of POLineItems 39,316 KB Microsoft Access Ap... 7/4/2003 5:58 PM
POLineItems 39,316 KB Microsoft Access Ap... 7/4/2003 5:58 PM
Type: Microsoft Access Application Size: 932 KB
932 KB
My Computer
HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY
WAYNE BERRY VS HAWAIIAN EXPRESS SERVICE ET AL
CIV NO CV03 00385 SOM LEK
EXHIBIT "A"


Microsoft Access - [Auxiliary Logistics Screens - Converted : Database]
File Edit View Insert Tools Window Help
HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY
WAYNE BERRY VS HAWAIIAN EXPRESS SERVICE ET AL
CIV NO CV03 00385 SOM LEK
Open Design New
Objects
Tables
Queries
Forms
Reports
Pages
Macros
Modules
Groups
Favorites
Name
Description
Modified
Created
Type
Create table in Design view
Create table by using wizard
Create table by entering data
MSysAccessObjects 6/17/2003 9:53:23 ... 6/17/2003 9:53:23 AM Table
Conversion Errors 6/17/2003 9:53:17 ... 6/17/2003 9:53:17 AM Table
Vessels 6/17/2003 9:53:17 ... 6/17/2003 9:53:17 AM Table: Linked Access
Vendor Defaults 6/17/2003 9:53:17 ... 6/17/2003 9:53:17 AM Table: Linked Access
System 6/17/2003 9:53:17 ... 6/17/2003 9:53:17 AM Table: Linked Access
Switchboard Items 6/17/2003 9:53:17 ... 6/17/2003 9:53:17 AM Table: Linked Access
Rates - Wharfage 6/17/2003 9:53:17 ... 6/17/2003 9:53:17 AM Table: Linked Access
Rates - Trucking 6/17/2003 9:53:17 ... 6/17/2003 9:53:17 AM Table: Linked Access
Rates - Tariff 6/17/2003 9:53:16 ... 6/17/2003 9:53:16 AM Table: Linked Access
Rates - Miscellaneous 6/17/2003 9:53:16 ... 6/17/2003 9:53:16 AM Table: Linked Access
Accounting - Order Costing Temp 6/17/2003 9:53:16 ... 6/17/2003 9:53:16 AM Table: Linked Access
Accounting - Order Costing Master List Temp 6/17/2003 9:53:16 ... 6/17/2003 9:53:16 AM Table: Linked Access
Accounting - Deferred KMart Costs 6/17/2003 9:53:16 ... 6/17/2003 9:53:16 AM Table: Linked Access
Accounting - Deferred Costs 6/17/2003 9:53:16 ... 6/17/2003 9:53:16 AM Table: Linked Access
Accounting - Container Costing Temp 6/17/2003 9:53:16 ... 6/17/2003 9:53:16 AM Table: Linked Access
Accounting - Container Costing Master List Temp 6/17/2003 9:53:16 ... 6/17/2003 9:53:16 AM Table: Linked Access
MSysRelationships 4/3/2003 9:40:12 AM 4/3/2003 9:40:12 AM Table
MSysQueries 4/3/2003 9:40:12 AM 4/3/2003 9:40:12 AM Table
MSysObjects 4/3/2003 9:40:12 AM 4/3/2003 9:40:12 AM Table
MSysACEs 4/3/2003 9:40:12 AM 4/3/2003 9:40:12 AM Table
Ready
NUM SCRL


Microsoft Access - [MSysObjects : Table]
File Edit View Insert Format Records Tools Window Help
Connect
Database
DateCreate
DateUpdate
Flags
ForeignName
Id
Lv
Z:\FCS LOGISTICS DATA.MDB
Z:\Auxiliary Logistics Data.mdb
Auxiliary Logistics Screens - Converted Properties
General
Summary
Statistics
Contents
Custom
Created: Thursday, April 03, 2003 9:40:12 AM
Modified: Tuesday, July 01, 2003 7:36:14 PM
Accessed: Tuesday, July 05, 2005 8:33:54 AM
Printed:
Last saved by:
Revision number:
Total editing time:
HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY
WAYNE BERRY VS HAWAIIAN EXPRESS SERVICE ET AL
CIV NO CV03 00385 SOM-LEK
OK
Cancel
Record:

HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY
WAYNE BERRY VS HAWAIIAN EXPRESS SERVICE ET AL
CIV NO CV03 00385 SOM LEK



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WAYNE BERRY VS HAWAIIAN EXPRESS SERVICE ET AL
CIV NO CV03 00385 SOM LEK

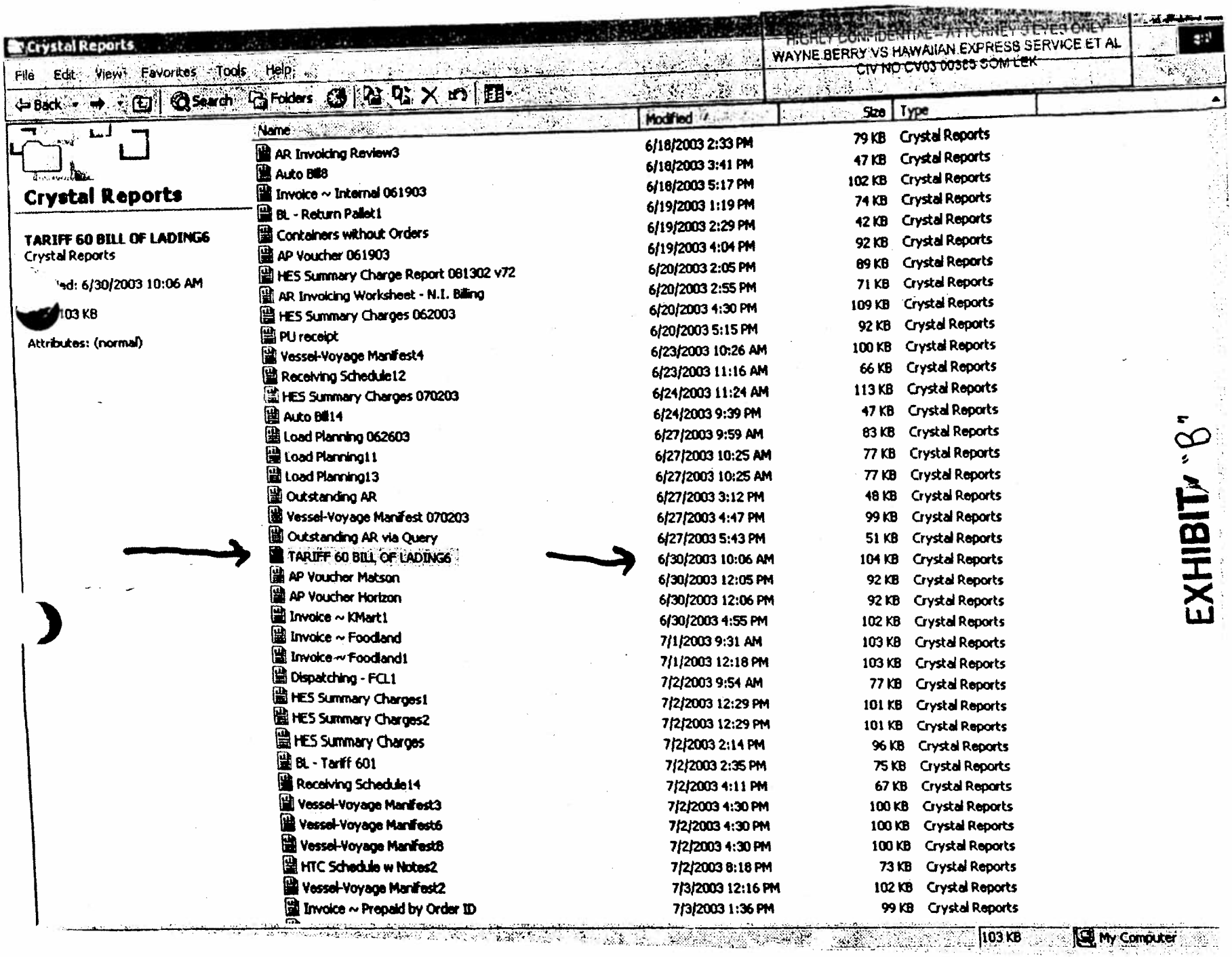
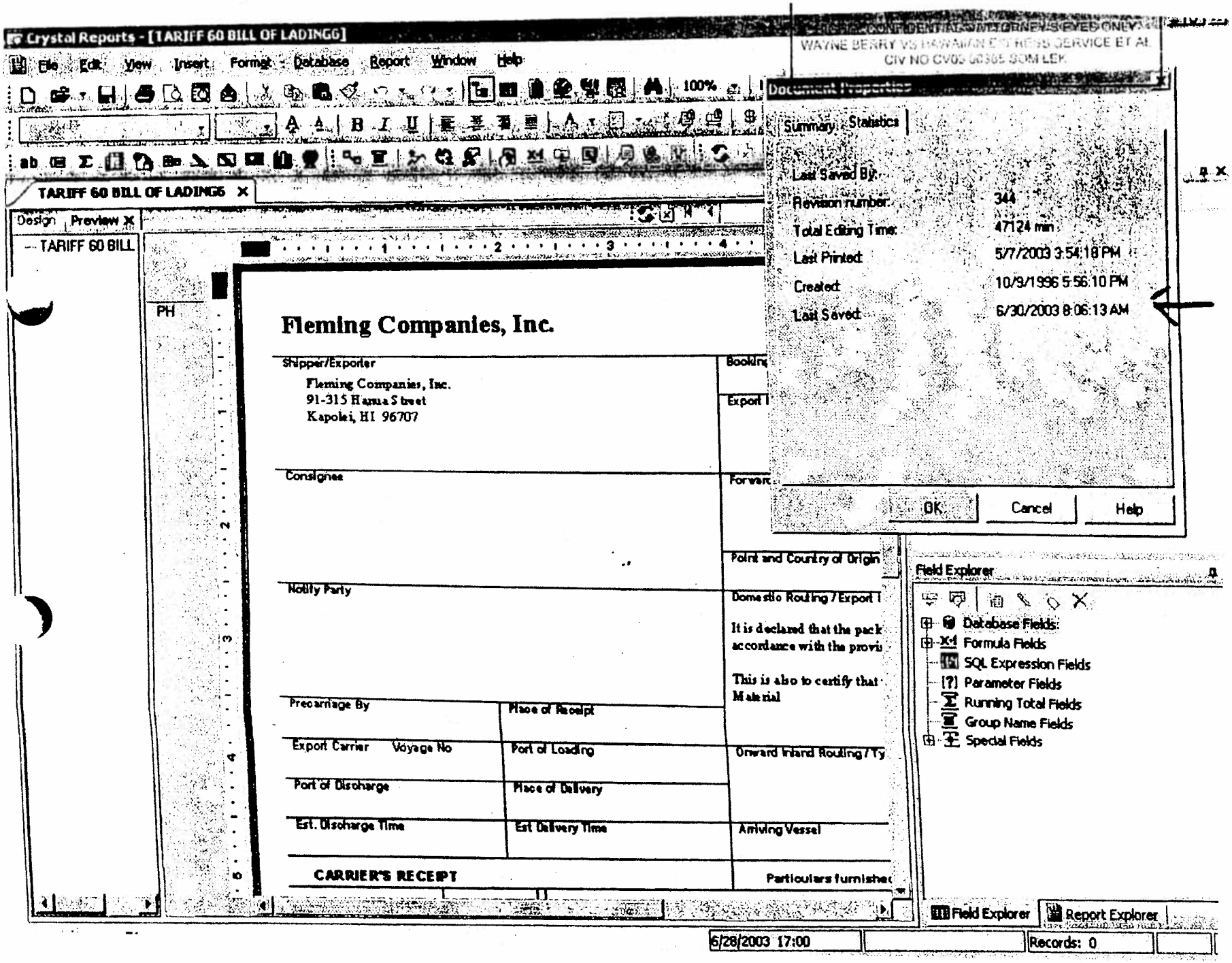
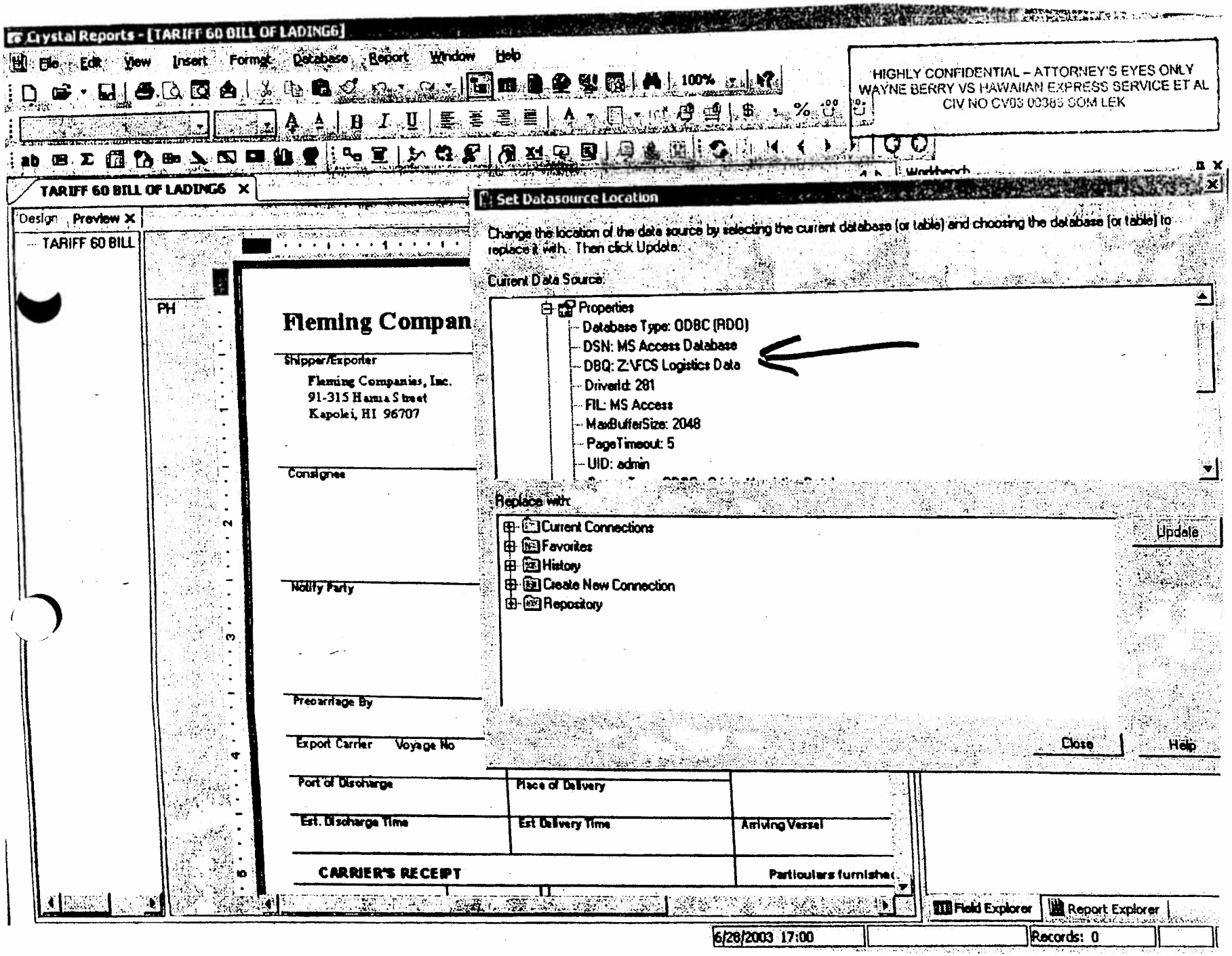


EXHIBIT "B"



WAYNE BERRY VS HAWAIIAN EXPRESS SERVICE ET AL
CIV NO CV05 00385 SOM LEK


Crystal Reports - [TARIFF 60 BILL OF LADING6]
File Edit View Insert Format Database Report Window Help
HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY
WAYNE BERRY VS HAWAIIAN EXPRESS SERVICE ET AL
CIV NO CV03 00385 SOM LEK
TARIFF 60 BILL OF LADING6
Design Preview
TARIFF 60 BILL
Fleming Compan
Shipper/Exporter
Fleming Companies, Inc.
91-315 Hanua Street
Kapolei, HI 96707
Consignee
Notify Party
Precarriage By
Export Carrier Voyage No
Port of Discharge
Place of Delivery
Est. Discharge Time
Est Delivery Time
Arriving Vessel
CARRIER'S RECEIPT
Particulars furnished
Set Datasource Location
Change the location of the data source by selecting the current database (or table) and choosing the database (or table) to replace it with. Then click Update.
Current Data Source:
Properties
Database Type: ODBC (RDO)
DSN: MS Access Database
DBQ: Z:\FCS Logistics Data
DriverId: 281
FIL: MS Access
MaxBufferSize: 2048
PageTimeout: 5
UID: admin
Replace with:
Current Connections
Favorites
History
Create New Connection
Repository
Update
Close
Help
Field Explorer
Report Explorer
6/26/2003 17:00
Records: 0

HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY
WAYNE BERRY V. [illegible] SERVICE ET AL
CIV NO CV07-00503 SOM-LEK

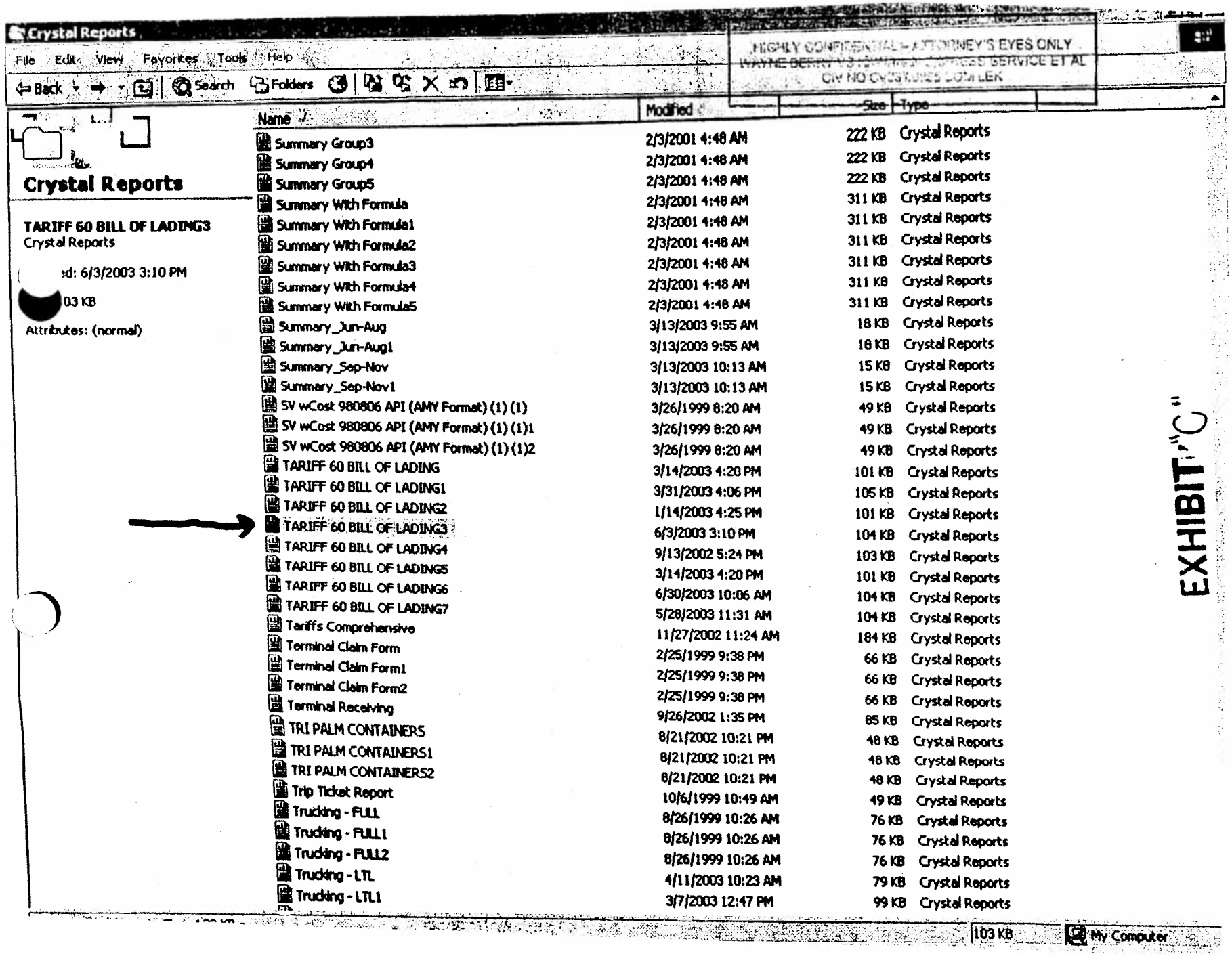


EXHIBIT "C"